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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2823

03/09/2023 Authored by Lee, K.; Freiberg and Howard
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to consumer protection; modifying provisions governing deceptive trade
1.3 practices and consumer fraud; amending Minnesota Statutes 2022, sections
1.4 325D.44, subdivisions 1, 2; 325F.69, subdivision 1, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2022, section 325D.44, subdivision 1, is amended to read:

1.7 Subdivision 1. Acts constituting. A person engages in a deceptive trade practice when,
1.8 in the course of business, vocation, or occupation, the person:

1.9 (1) passes off goods or services as those of another;

1.10 (2) causes likelihood of confusion or of misunderstanding as to the source, sponsorship,
1.11 approval, or certification of goods or services;

1.12 (3) causes likelihood of confusion or of misunderstanding as to affiliation, connection,
1.13 or association with, or certification by, another;

1.14 (4) uses deceptive representations or designations of geographic origin in connection
1.15 with goods or services;

1.16 (5) represents that goods or services have sponsorship, approval, characteristics,
1.17 ingredients, uses, benefits, or quantities that they do not have or that a person has a
1.18 sponsorship, approval, status, affiliation, or connection that the person does not have;

1.19 (6) represents that goods are original or new if they are deteriorated, altered,
1.20 reconditioned, reclaimed, used, or secondhand;

2.1 (7) represents that goods or services are of a particular standard, quality, or grade, or  
 2.2 that goods are of a particular style or model, if they are of another;

2.3 (8) disparages the goods, services, or business of another by false or misleading  
 2.4 representation of fact;

2.5 (9) advertises goods or services with intent not to sell them as advertised;

2.6 (10) advertises goods or services with intent not to supply reasonably expectable public  
 2.7 demand, unless the advertisement discloses a limitation of quantity;

2.8 (11) makes false or misleading statements of fact concerning the reasons for, existence  
 2.9 of, or amounts of price reductions;

2.10 (12) in attempting to collect delinquent accounts, implies or suggests that health care  
 2.11 services will be withheld in an emergency situation; ~~or~~

2.12 (13) engages in (i) unfair methods of competition, or (ii) unfair or conscionable acts or  
 2.13 practices; or

2.14 ~~(13)~~ (14) engages in any other conduct which similarly creates a likelihood of confusion  
 2.15 or of misunderstanding.

2.16 Sec. 2. Minnesota Statutes 2022, section 325D.44, subdivision 2, is amended to read:

2.17 Subd. 2. **Proof.** (a) In order to prevail in an action under sections 325D.43 to 325D.48,  
 2.18 a complainant need not prove competition between the parties or actual confusion or  
 2.19 misunderstanding.

2.20 (b) For purposes of subdivision 1, clause (13), the standard of proof provided under  
 2.21 section 325F.69, subdivision 7, applies.

2.22 Sec. 3. Minnesota Statutes 2022, section 325F.69, subdivision 1, is amended to read:

2.23 Subdivision 1. **Fraud, misrepresentation, deceptive or unfair practices.** The act, use,  
 2.24 or employment by any person of any fraud, unfair or unconscionable practice, false pretense,  
 2.25 false promise, misrepresentation, misleading statement or deceptive practice, with the intent  
 2.26 that others rely thereon in connection with the sale of any merchandise, whether or not any  
 2.27 person has in fact been misled, deceived, or damaged thereby, is enjoined as provided in  
 2.28 section 325F.70.

3.1 Sec. 4. Minnesota Statutes 2022, section 325F.69, is amended by adding a subdivision to  
3.2 read:

3.3 Subd. 7. **Unfair or unconscionable acts or practices; standard of proof.** For purposes  
3.4 of this section, an unfair method of competition or an unfair or unconscionable act or practice  
3.5 is any method of competition, act, or practice that: (1) offends public policy as established  
3.6 by the statutes, rules, or common law of Minnesota; (2) is immoral, unethical, oppressive,  
3.7 or unscrupulous; or (3) is substantially injurious to consumers, competitors, or other  
3.8 businesspersons.